

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CHARLES G. RUBEL,

Plaintiff,

v.

JAMES GREER, SHARON ZUNKER  
and FERN SPRINGS,

Defendants.  
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ORDER

08-cv-238-bbc

Defendants have moved to dismiss plaintiff's complaint on the ground that plaintiff failed to exhaust his administrative remedies. I will deny the motion because it relies on factual matters that are not of public record, but the subject of an affidavit from a prison official.

Once a pretrial conference has been held and plaintiff has been provided a copy of this court's procedures for filing or opposing dispositive motions, defendants will be free to file a motion for summary judgment based on plaintiff's alleged failure to exhaust his administrative remedies.

ORDER

IT IS ORDERED that the motion to dismiss filed by defendants James Greer, Sharon Zunker and Fern Springs is DENIED.

Entered this 14<sup>th</sup> day of August, 2008.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge